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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,961	02/09/2004	Hiroshi Hoshino	4980-0003	5569

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EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,961

Applicant(s)

HOSHINO ET AL.

Examiner

Philip H Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-9-2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of Figure 1, claims 1, 4 and 7 in the reply filed on 5-19-2005 is acknowledged. However, it is submitted that claim 7 does not read on Figure 1 for the same reason as claim 10 which has the same limitation as claim 7 but depends on claim 4 instead of claim 1). Therefore, claim 7 is withdrawn along with claim 10 and other non-elected claims. Furthermore, the statement that claim 1 while not necessarily generic to all the species, is generic as to the species of FIG. 1-10 is not understood because Figures 1-10 represent all species in the drawings. Furthermore, when a generic claim is found allowable, only the claims include all the limitations of the allowable generic claim (such as dependent claims depending therefrom, e.g. claims 4, 7 and 10) would be allowable. Therefore, the statement "claims 2-12 would all be allowable" is not accurate and premature as claim 1 is not yet allowable.

2. Claims 2, 3 and 5-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5-19-2005.

3. The drawings filed on 2-9-2004 are acceptable.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Marceau et al (US 4,855,552).

Marceau shows a current-carrying/heating apparatus of liquid food (col. 1, line 65 – col. 2, line 2), which carries a current to fluid heat-exposed food and heats the heat-exposed food by resistance heat obtained, the apparatus comprising: a primary winding 12 wound about an iron core 11 and connected to an AC power supply (through input connection 17); and a heat pipe (13, 18) wound about said iron core, having a communication hole 20 to which the heat exposed food is supplied, and constituting an electric closed loop circuit (with the use of weld spots 19) through the heat-exposed food supplied to said communication hole, wherein a magnetic flux is generated around said iron core by the current flowing to said primary winding, and a current, induced by an operation of electromagnetic induction of the magnetic flux, flows to the heat-exposed food. In regard to claim 4, it also shows a supply portion 20 in which a supply hole communicating with said communication hole is provided and which supplies the heat-exposed food into said communication hole; and an exhaust portion 21 in which an exhaust hole communicating with said communication hole is provided and which exhausts the heat-exposed food from said communication hole, and the heat-exposed food is heated while continuously flowing into said communication hole (see Figures 1 and 2 and col. 3, line 23 – col. 4, line 24).

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6. Claims 1 and 4 are further rejected under 35 U.S.C. 102(b) as being anticipated by Kendall (US 2,501,393).

Kendall shows a current-carrying/heating apparatus of liquid comprising: a primary winding 2 wound about an iron core 1 and connected to an AC power supply (not shown but inherent); and a heat pipe 4, 5 wound about said iron core, having a communication hole 6 to which the heat exposed liquid is supplied, and constituting an electric closed loop circuit through the liquid supplied to said communication hole, wherein a magnetic flux is generated around said iron core by the current flowing to said primary winding, and a current, induced by an operation of electromagnetic induction of the magnetic flux, flows to the heat-exposed liquid. The term "liquid food" is only an intended use and does not add patentable weight to the claimed apparatus as Kendall can be used for heating any liquids, including liquid food. In regard to claim 4, it also shows a supply portion 8 in which a supply hole communicating with said communication hole is provided and which supplies the heat-exposed liquid into said communication hole; and an exhaust portion 9 in which an exhaust hole communicating with said communication hole is provided and which exhausts the heat-exposed liquid from said communication hole, and the liquid is heated while continuously flowing into said communication hole (see Figures 1-3 and col. 1, line 1 – col. 2, line 49).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Ellis (GB 2 128 860) is further cited to show an induction liquid heater with similar claimed features.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
5-20-2005